

Incorporating culture sustainably in planning policy: the need for negotiable and debatable legal certainty

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The title of the thematic stream 'Incorporating culture in sustainable development policies' explicitly suggests searching beyond the typical sectoral instrument of the legal protection of cultural heritage elements. When it comes to the transition of qualitative ambitions for the conservation and development of these elements in other sustainable development policies, planning policy appears to be the most obvious and often only target of landscape policy makers.

In Flanders (Belgium), several attempts have been made in the past and even today to embed landscape perspectives in the familiar method of land use planning. Landscape development and management perspectives are incorporated in the allocation of e.g. residential, industrial, agricultural and natural land uses to precisely defined areas. These attempts have been futile, however. In contrast with for instance the EU-top-down imposed ecological constraints, the political and societal basis for what is considered as an additional limitation of the free use of property seems to be missing.

This observation goes to the heart of the matter which is often ignored or bypassed by policy makers and scientists: incorporating the cultural dimension in sustainable planning policy requires a totally different approach of the notion of legal certainty land use plans aspire. As culture is an even more social construction than space, cultural aspects such as heritage and landscape quality ask for a more negotiable and debatable kind of legal certainty instead of the absolute certainty of the legal urban rules. In this context, urban rules should be transformed into more descriptive rules of the game that mark the playing field of the social construction in which a debate between government and stakeholders about the development and management of heritage can take place.

Keywords: descriptive urban rules, legal certainty, planning policy.

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